Single Bench

(1)

CF 100/-

(4)

IN THE HON'BLE HIGH COURT OF CHHATTISGARH, BILASPUR (C.G.)

WRIT PETITION NO.4800 /2006

PETITIONER : **Smt. Nivedita Mukherjee** w/o Shri Tapas Mukherjee, aged about 42 years, working as an Assistant Professor, at Dr. Khub Chand Baghel Government College, Bhilai-3, Bhilai, R/o. 8/4 Radhika Nagar, Bhilai, District Durg (C.G.)

P.R. No. 4832/06 Presented by Shri manoj Jaiswal dated 31/8/06

VERSUS

RESPONDENT : 1. **State of Chhattisgarh**, Through- the Secretary, Department of Higher Education, D.K.S. Bhawan, Raipur (C.G.)

WRIT PETITION UNDER ARTICLES 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT/WRITS, ORDER/ORDERS, OR/AND DIRECTION / DIRECTIONS IN THE NATURE OF MANDAMUS/CERTIORARI, OR OF ANY OTHER APPROPRIATE NATURE.

(79)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

W. P. No. 4800 of 2006

Petitioner : Smt. Nivedita Mukherjee

Versus

Respondent : State of Chhattisgarh

Shri M.P.S. Bhatia, Advocate for the petitioner.

Shri Sushil Dubey, Govt. Advocate for the State.

ORDER

(8th September, 2006)

1. The petitioner was working as Assistant Professor in Sociology Department in Dr. Khub Chand Baghel, Govt. College Bhilai-3. By impugned order dated 30.6.2006 (Annexure P-1) the petitioner was transferred to Dr. Devi Prasad Chaube, Govt. College, Gandai, District Rajnandgaon (C.G.). The petitioner has impugned this order in Writ Petition No. 3322/2006 filed earlier before this Court, after hearing learned counsel for the petitioner granted liberty to the petitioner to make representation to the respondent/authorities within 10 days from the date of the order i.e. 07.07.2006.

2. While passing the order dated 7.7.2006 this Court did not express any opinion on the merit of the case. However, it

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appears that having examined the case on merit, the petitioner was granted liberty to approach the respondent-authority. The petitioner cannot be permitted to raise the same issue again in this petition. The representation was considered and the same was rejected vide order dated 25.8.2006.

3. After having heard learned counsel for the parties and having perused the records, it is evident that the impugned order is passed by the Competent Officer in accordance with law, in administrative exigency and in the interest of public. The submission made by learned counsel for the petitioner that out of 18 years, the petitioner has served for more than 14 years in the rural/tribal areas, the petitioner has hardly 4 years to retire and the petitioner has two school going children, cannot be accepted on simple ground that no law/instruction/policy decision provides that if a person has served for long period in tribal area, the employee should necessarily be transferred to urban area. Other grounds of having 4 years of service and two school going children are also not sustainable.

4. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere in the transfer matter and

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this Court can interfere only in the case of proved malafide, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and regulations.

5. For the reasons aforementioned, the writ petition is dismissed. No order as to costs.

Sd/-
Satish K.Agnihotri
Judge

Subhash